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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 JAMES SHARKEY, Case No. 2:19-cv-01386-GMN-DJA  
10 v. Petitioner,  
11 JAMES DZURENDA, et al., ORDER  
12 Respondents.  
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14 Petitioner has submitted a *pro se* petition for writ of habeas corpus, pursuant to  
15 28 U.S.C. § 2254 (ECF No. 1-1). However, petitioner has submitted an incomplete  
16 application to proceed *in forma pauperis*. He has failed to include a signed financial  
17 certificate or inmate account statements. Accordingly, this matter has not been properly  
18 commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

19 Thus, the present action will be dismissed without prejudice to the filing of a new  
20 petition in a new action with either the \$5.00 filing fee or a completed application to  
21 proceed *in forma pauperis* on the proper form with both an inmate account statement for  
22 the past six months and a properly executed financial certificate.

23 It does not appear from the papers presented that a dismissal without prejudice  
24 will materially affect a later analysis of any timeliness issue with regard to a new action  
25 filed in a timely manner after petitioner has exhausted all available state remedies.<sup>1</sup>  
26 Petitioner at all times remains responsible for properly exhausting his claims, for  
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1 The Nevada Supreme Court docket reflects that briefing is in progress for petitioner's appeal of the denial  
of his state postconviction habeas petition. Nevada Supreme Court Case No. 79294.

1 calculating the running of the federal limitation period as applied to his case, and for  
2 properly commencing a timely-filed federal habeas action.

3 **IT IS THEREFORE ORDERED** that petitioner's incomplete application to  
4 proceed *in forma pauperis* (ECF No. 1) is **DENIED** as set forth in this order.

5 **IT IS FURTHER ORDERED** that the Clerk shall detach and file the petition (ECF  
6 No. 1-1).

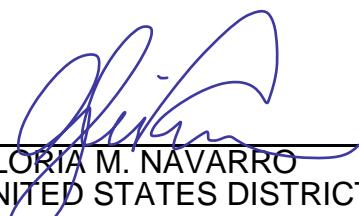
7 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice to  
8 the filing of a new petition in a new action with either a properly completed application  
9 form to proceed *in forma pauperis* or the \$5.00 filing fee.

10 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as  
11 jurists of reason would not find the court's dismissal of this improperly commenced  
12 action without prejudice to be debatable or incorrect.

13 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each  
14 of the application form to proceed *in forma pauperis* for incarcerated persons and a  
15 noncapital Section 2254 habeas petition form, one copy of the instructions for each  
16 form, and a copy of the papers that he submitted in this action.

17 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly  
18 and close this case.

19 DATED: 8 October 2019.

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23 GLORIA M. NAVARRO  
24 UNITED STATES DISTRICT JUDGE  
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